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John J. Kochevar

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EXAMINER

JOYNER, KEVIN

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/792,044	Applicant(s) KOCHEVAR, JOHN J.	
	Examiner Kevin C. Joyner	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11, 14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I and Species I, corresponding to claims 1-6 and 8-18 in the reply filed on July 5, 2007 is acknowledged.
2. Claims 7, 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 5, 2007.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock, Sr. et al. (U.S. Patent No. 7,065,803).

Concerning claims 1, 4 and 5 Dooley Jr. discloses a vacuum line sanitization device that is capable of sanitizing a vacuum line comprising:

A canister body (The housing 10 and closed bottom 51 make up a canister body.) having a first end and an opposing second end, said canister body forming a fluid

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chamber therein, said fluid chamber configured to receive a supply of chemicals suitable for sanitizing the vacuum line as disclosed in the abstract;

An inlet (23) at the first end on said canister body in communication with said fluid chamber that is capable of disposing a fluid inside said fluid chamber, said fluid selected so as to form a sanitizing mixture when combined with said supply of chemicals as disclosed in column 6, lines 33-40;

An inlet valve at said inlet, said inlet valve configured to connect to a fluid supply line and receive said fluid therefrom, said inlet valve further configured to prevent flow of said fluid from said fluid chamber out of said canister body through said fluid inlet as disclosed in column 6, lines 36-40;

An outlet (7) at a second end of said canister body in communication with said fluid chamber, said outlet having an outlet stem (11), said outlet stem sized and configured to connect said outlet to an end of the vacuum line (concerning claim 5), as disclosed in column 6, lines 25-32.

While Dooley discloses providing a valve for the inlet to control the flow of the fluid, Dooley does not appear to disclose that the outlet comprises an outlet valve configured to selectively allow said fluid to flow through the vacuum line so as to clean and sanitize the vacuum line, whereby the vacuum line is sanitized by opening said dispensing means to draw said sanitizing mixture through the vacuum line. More specifically, concerning claims 8, said valve comprising a closeable valve. Mock discloses a device used for dispensing a sanitizer through lines into a pool. The sanitizer, which is known to sanitize the lines during the transfer process as well, is

placed in a permeable bag inside of a canister (100) where it is dissolved into a mixture and transferred to the pool through a series of lines as shown in Figure 1. The canister also comprises an inlet (105) and outlet (108) that comprises valves configured to selectively allow said fluid to flow through the line so as to clean and sanitize the line, whereby the line is sanitized by opening said dispensing means to draw said mixture through the line as disclosed in column 6, lines 1-12 and column 3, lines 8-13.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Dooley Jr. to include a valve on the outlet of the canister as exemplified by Mock Sr. in order to regulate the amount of solution that exits the canister.

Concerning claim 9, Dooley Jr. continues to disclose that the supply of chemicals is a solid chemical cartridge as disclosed in column 8, lines 22-33. More specifically, the container (50) is solid, contains chemicals, and is a cartridge as broadly defined. Regarding claim 17, the limitations are met by Dooley Jr. in view of Homan as set forth with respect to claims 3 and 11 above, wherein the inner chamber of Homan is fully capable of receiving a solid chemical cartridge.

3. Claims 2, 3, 11, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock, Sr. et al. (U.S. Patent No. 7,065,803) as applied to claim 1 above, and further in view of Homan (U.S. Patent No. 4,873,727).

Dooley in view of Mock is relied upon as set forth in reference to claim 1 above. Concerning claims 2, 3, and 11, the limitations of the claims are met with respect to

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claim 1 except for a perforated sleeve, which is an inner chamber (concerning claims 2 and 3) disposed in said fluid chamber in fluid communication with said fluid chamber, said perforated sleeve having a supply of chemicals suitable for sanitizing the vacuum line. Homan discloses a device that is fully capable of sanitizing a vacuum line comprising a canister body, an inlet, an outlet, and an inner chamber in said canister body, wherein a supply of chemicals is disposed in said inner chamber (Figures 1 and 2; column 4, lines 39-65). The reference continues to disclose that the inner chamber is a perforated sleeve (abstract) disposed inside the canister (16), wherein the inner chamber comprises a supply of chemicals located therein (column 4, lines 45-51). Homan discloses that the inner chamber is a conventionally known teaching to one of ordinary skill in the art and that it provides a chamber that is easily replaceable for an operator (column 1, lines 58-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Dooley to include an inner chamber that is a perforated sleeve in said canister body, wherein said supply of chemicals is located in said inner chamber, as such is a commonly known apparatus for supplying a set of chemicals to a canister and ultimately a fluid line as exemplified by Homan.

Concerning claim 16, Dooley Jr. continues to disclose that the supply of chemicals is a solid chemical cartridge as disclosed in column 8, lines 22-33. More specifically, the container (50) is solid, contains chemicals, and is a cartridge as broadly defined. Regarding claim 17, the limitations are met by Dooley Jr. in view of Homan as

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set forth with respect to claims 3 and 11 above, wherein the inner chamber of Homan is fully capable of receiving a solid chemical cartridge.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock Sr. et al. (U.S. Patent No. 7,065,803) as applied to claim 1 above, and further in view of Fitton (U.S. Patent No. 6,106,771).

Dooley Jr. in view of Mock are relied upon as set forth in reference to claim 1 above. While Dooley Jr. discloses a valve as the means for sealing, Dooley Jr. in view of Mock does not appear to disclose that the inlet valve is a quick release valve. It is generally known in the art to provide water line inlet valves with a quick release in order to disconnect the line quickly. Fitton discloses a system for sanitizing water lines that includes a housing with a routing valve that is of the quick release type as disclosed in column 3, lines 16-20. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Dooley Jr. in view of Mock by providing a quick release at the inlet in order to allow quick disconnection of the line as exemplified by Fitton.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock Sr. et al. (U.S. Patent No. 7,065,803) as applied to claim 1 above, and further in view of Rauchwerger (U.S. Patent No. 5,743,287).

Dooley Jr. in view of Mock are relied upon as set forth in reference to claim 1 above. Dooley Jr. in view of Mock does not appear to disclose that the device further comprises an indicator configured to indicate when said supply of chemicals must be

replaced. However, applying an indicator to such a device is known in the art of sanitizing pipes in order to alert the operator when the sanitizing fluid has been exhausted from the device. One such example is disclosed by Rauchwerger in column 2, lines 5 and 6. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Dooley Jr. in view of Mock to include an indicator as exemplified by Rauchwerger in order to alert an operator when the sanitizing fluid has been exhausted.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock Sr. et al. (U.S. Patent No. 7,065,803) and Homan (U.S. Patent No. 4,873,727) as applied to claim 11 above, and further in view of Fitton (U.S. Patent No. 6,106,771).

Dooley Jr. in view of Mock and Homan are relied upon as set forth in reference to claim 11 above. While Dooley Jr. discloses a valve as the means for sealing, Dooley Jr. in view of Mock and Homan does not appear to disclose that the inlet valve is a quick release valve. It is generally known in the art to provide water line inlet valves with a quick release in order to disconnect the line quickly. Fitton discloses a system for sanitizing water lines that includes a housing with a routing valve that is of the quick release type as disclosed in column 3, lines 16-20. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Dooley Jr. in view of Mock and Homan by providing a quick release at the inlet in order to allow quick disconnection of the line as exemplified by Fitton.

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7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock Sr. et al. (U.S. Patent No. 7,065,803) and Homan (U.S. Patent No. 4,873,727) as applied to claim 11 above, and further in view of Rauchwerger (U.S. Patent No. 5,743,287).

Dooley Jr. in view of Mock and Homan are relied upon as set forth in reference to claim 11 above. Dooley Jr. in view of Mock and Homan does not appear to disclose that the device further comprises an indicator configured to indicate when said supply of chemicals must be replaced. However, applying an indicator to such a device is known in the art of sanitizing pipes in order to alert the operator when the sanitizing fluid has been exhausted from the device. One such example is disclosed by Rauchwerger in column 2, lines 5 and 6. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Dooley Jr. in view of Mock and Homan to include an indicator as exemplified by Rauchwerger in order to alert an operator when the sanitizing fluid has been exhausted.

Response to Arguments

8. Applicant's arguments filed July 5, 2007 have been fully considered but they are not persuasive.

Applicant's principle arguments are:

(a) Nothing in these references, or any knowledge generally available to one of ordinary skill in the art, compels, teaches, suggests or even offers any incentive such that an individual wanting to have vacuum line sanitization device with the locking/unlocking advantages of Applicant's invention.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., locking/unlocking advantages) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(b) Although both Dooley and Mock are chemical delivery systems for dissolving and then delivering a quantity of chemical solution, neither of these references is directed to such a system for use with a vacuum line system.

In response to applicant's argument that Dooley and Mock are not directed to such a system for use with a vacuum line system, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. More specifically, the vacuum line is not positively recited in the claims and is therefore considered the intended use of the device, i.e. the device is intended to be used to sanitize a vacuum line. As such, both Dooley and Mock are fully capable of

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being connected to a vacuum line and sanitizing that line as each provide and outlet with connection means for connecting to another fluid conduit such as a vacuum line.

(c) Dooley does not have the sealing means on the inlet or the dispensing means at the outlet of claims 1 and 11.

*With regard to the sealing means on the inlet, the Applicant provides the limitations of, "a means for sealing said inlet for preventing flow of said fluid from said fluid chamber out of said canister body through said fluid inlet;" for claim 1, and, "an inlet valve at said inlet, said inlet valve configured to connect to a fluid supply line and receive said fluid therefrom, said inlet valve further configured to prevent flow of said fluid from said fluid chamber out of said canister body through said fluid inlet." As clearly disclosed in column 6 lines 36-40, the valve starts and **stops** fluid flow to the canister. When the valve stops flow to the canister, it seals the canister from the fluid flowing in and prevents fluid in the canister from flowing out. Concerning the dispensing means, Dooley is not relied upon to disclose the dispensing means. Mock is relied upon to disclose the dispensing means.*

9. Applicant's arguments with respect to claims 2, 3, and 11 concerning the limitations of the inner chamber being a perforated sleeve have been considered but are moot in view of the new ground(s) of rejection:

Applicant's principle argument is:

(d) Applicant's claims (2, 3, and 11), as amended, identify the supply of chemicals as being disposed inside the inner chamber, which is a perforated sleeve (claim 3 and 11). To the extent the distributor head 14 of Dooley is an inner chamber or a perforated sleeve, neither of which is conceded, the supply of chemicals are not received therein.

The Applicant's amendment has necessitated a new ground for rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Joyner whose telephone number is (571) 272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCJ



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